

SECOND REGULAR SESSION

HOUSE BILL NO. 2179

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HOSMER AND BRITT (Co-sponsors).

Read 1st time March 14, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4334L.011

AN ACT

To repeal, transfer or enact twenty-seven sections relating to probation, pardon, parole, and conditional release, with an effective date for certain sections and an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. The following twenty-seven sections are repealed, transferred or enacted to
2 be known as sections 549.004, 549.006, 549.008, 549.012, 549.014, 549.016, 549.018, 549.022,
3 549.024, 549.026, 549.028, 549.032, 549.034, 549.036, 549.038, 549.042, 549.044, 549.046,
4 549.048, 549.052, 549.054, 549.056, 549.062, 549.064, 549.066, 549.068 and 558.011, to read
5 as follows:

[217.650.] **549.004.** As used in sections [217.650 to 217.810] **549.004 to 549.068**, unless
2 the context clearly indicates otherwise, the following terms mean:

3 (1) "Board", the state board of probation and parole;

4 (2) "Chairman", chairman of the board of probation and parole;

5 (3) **"Department", the department of corrections of the state of Missouri;**

6 (4) **"Director", the director of the office of probation and parole;**

7 (5) "Diversionary program", a program designed to utilize alternatives to incarceration
8 undertaken under the supervision of the board after commitment of an offense and prior to
9 arraignment;

10 [(4)] (6) "Parole", the release of an offender to the community by the court or the state
11 board of probation and parole prior to the expiration of his term, subject to conditions imposed
12 by the court or the board and to its supervision;

13 [(5)] (7) "Prerelease program", a program relating to an offender's preparation for, or

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 orientation to, supervision by the board immediately prior to or immediately after assignment of
15 the offender to the board for supervision;

16 [(6)] (8) "Pretrial program", a program relating to the investigation or supervision of
17 persons referred or assigned to the board prior to their conviction;

18 [(7)] (9) "Probation", a procedure under which a defendant found guilty of a crime upon
19 verdict or plea is released by the court without imprisonment, subject to conditions imposed by
20 the court and subject to the supervision of the board;

21 [(8)] (10) "Recognizance program", a program relating to the release of an individual
22 from detention who is under arrest for an offense for which he may be released as provided in
23 section 544.455, RSMo.

**549.006. 1. Effective January 1, 2003, the board of probation and parole and the
2 division of probation and parole within the department of corrections shall be transferred
3 in their entirety with all the unencumbered appropriations balances, in whole or in part,
4 and all the authority, powers, duties, functions, records, personnel, property, matters
5 pending, and all other pertinent vestiges of the existing board and division to the office of
6 probation and parole.**

7 **2. Heads of the department of corrections, the division of probation and parole
8 within the department of corrections and the board of probation and parole shall prepare
9 orderly transfer arrangements related to unencumbered appropriations balances, records,
10 personnel, property, matters pending, and all other pertinent vestiges.**

11 **3. Any matter pending before the board or the division of probation and parole
12 within the department of corrections on the effective date of transfer shall be assumed by
13 the board of probation and parole within the office of probation and parole or the office
14 of probation and parole which will exercise the duty or power relating to the matter after
15 the effective date of transfer and there shall be no interruption of process in such transfer.
16 All rules, forms, and procedures shall remain unchanged for a period of ninety days
17 following transition and then may be changed as provided by law.**

18 **4. The period from the effective date of this section to the date of transfer shall be
19 devoted to planning and arranging the transition to insure the uninterrupted operations
20 of the probation and parole system.**

**549.008. 1. The "Office of Probation and Parole" is hereby created and established
2 as an independent department of the judicial branch of state government.**

3 **2. The office of probation and parole shall have the authority to adopt, amend and
4 repeal rules and regulations under the provisions of this section and chapter 536, RSMo,
5 as necessary or desirable to carry out the provisions of this chapter which are not
6 inconsistent with the constitution of this state. No rule or portion of a rule promulgated**

7 under the authority of this chapter shall become effective unless it has been promulgated
8 pursuant to the provisions of section 536.024, RSMo.

9 **3. The office of probation and parole shall adopt policies and operating regulations**
10 **concerning only its internal management which need not be published in the Missouri**
11 **Register or the code of state regulations under chapter 536, RSMo, but these regulations**
shall be available for public inspection and review.

[217.655.] **549.012.** 1. The board of probation and parole shall be responsible for
2 determining whether a person confined in the department shall be paroled or released
3 conditionally as provided by section 558.011, RSMo. The board shall provide supervision to all
4 persons referred by the circuit courts of the state as provided by sections [217.750 and 217.760]
5 **549.048 and 549.054.**

6 2. The board shall provide such programs as necessary to carry out its responsibilities
7 consistent with its goals and statutory obligations.

[217.660.] **549.014.** 1. The chairman of the board of probation and parole shall be the
2 director of the [division] **office of probation and parole.**

3 2. In addition to the compensation as a member of the board, any chairman whose term
4 of office began before August 28, 1999, shall receive three thousand eight hundred seventy-five
5 dollars per year for duties as chairman.

[217.665.] **549.016.** 1. Beginning August 28, 1996, the board of probation and parole
2 shall consist of seven members appointed by the governor by and with the advice and consent
3 of the senate.

4 2. Beginning August 28, 1996, members of the board shall be persons of recognized
5 integrity and honor, known to possess education and ability in decision making through career
6 experience and other qualifications for the successful performance of their official duties. Not
7 more than four members of the board shall be of the same political party.

8 3. At the expiration of the term of each member and of each succeeding member, the
9 governor shall appoint a successor who shall hold office for a term of six years and until his **or**
10 **her** successor has been appointed and qualified. Members may be appointed to succeed
11 themselves.

12 4. Vacancies occurring in the office of any member shall be filled by appointment by the
13 governor for the unexpired term.

14 5. The governor shall designate one member of the board as chairman. The chairman
15 shall be the director of the [division] **office of probation and parole** and shall have charge of
16 the [division's] **office's** operations, funds and expenditures. The chairman shall designate by
17 order of record another member to act as chairman in the event of absence or sickness of the
18 chairman, and during such time the member so appointed by the chairman shall possess all

19 powers of the chairman.

20 6. Members of the board shall devote full time to the duties of their office and before
21 taking office shall subscribe to an oath or affirmation to support the Constitution of the United
22 States and the Constitution of the State of Missouri. The oath shall be signed in the office of the
23 secretary of state.

24 7. The annual compensation for each member of the board whose term commenced
25 before August 28, 1999, shall be forty-five thousand dollars plus any salary adjustment, including
26 prior salary adjustments, provided pursuant to section 105.005, RSMo. Salaries for board
27 members whose terms commence after August 27, 1999, shall be set as provided in section
28 105.950, RSMo; provided, however, that the compensation of a board member shall not be
29 increased during the member's term of office, except as provided in section 105.005, RSMo. In
30 addition to compensation provided by law, the members shall be entitled to reimbursement for
31 necessary travel and other expenses incurred [pursuant to section 33.090, RSMo].

 [217.670.] **549.018.** 1. The board shall adopt an official seal of which the courts shall
2 take official notice.

3 2. Decisions of the board regarding granting of paroles, extensions of a conditional
4 release date or revocations of a parole or conditional release shall be by a majority vote of the
5 hearing panel members. The hearing panel shall consist of one member of the board and two
6 hearing officers appointed by the board. A member of the board may remove the case from the
7 jurisdiction of the hearing panel and refer it to the full board for a decision. Within thirty days
8 of entry of the decision of the hearing panel to deny parole or to revoke a parole or conditional
9 release, the offender may appeal the decision of the hearing panel to the board. The board shall
10 consider the appeal within thirty days of receipt of the appeal. The decision of the board shall
11 be by majority vote of the board members and shall be final.

12 3. The orders of the board shall not be reviewable except as to compliance with the terms
13 of sections [217.650 to 217.810] **549.004 to 549.068** or any rules promulgated pursuant to such
14 section.

15 4. The board shall keep a record of its acts and shall notify each correctional center of
16 its decisions relating to persons who are or have been confined in such correctional center.

17 5. Notwithstanding any other provision of law, any meeting, record, or vote, of
18 proceedings involving probation, parole, or pardon, may be a closed meeting, closed record, or
19 closed vote, **except that after the hearing panel or full board has voted to parole an inmate**
20 **the record of such vote shall be open to the public.**

 [217.675.] **549.022.** The members of the board shall prepare and cause to be published
2 a handbook containing all rules, regulations, and suggestions governing the conduct of parolees.
3 Handbooks shall be furnished to all parolees and to any employer of a parolee who requests it.

4 The handbook shall be continuously revised and updated by the board.

[217.680.] **549.024.** 1. The office and headquarters of the board shall not be located on
2 the site of any correctional center.

3 2. Correctional centers shall provide to the board and its employees suitable space for
4 interviews and hearings with offenders in the administration buildings of the correctional center.

5 **3. Notwithstanding any other provision of law to the contrary the department of**
6 **corrections shall cooperate with and shall provide to the office of probation and parole any**
7 **records or information requested by the office of probation and parole.**

[217.682.] **549.026.** The board shall appoint a secretary who shall serve at the pleasure
2 of the board. It shall be the duty of the secretary to keep a full and true record of all books,
3 documents and papers ordered filed and of all orders made, approved and confirmed by it. It
4 shall be the responsibility of the secretary to provide administrative assistance to the board as it
5 deems appropriate and necessary to carry out the goals of the board.

[217.690.] **549.028.** 1. When in its opinion there is reasonable probability that an
2 offender of a correctional center can be released without detriment to the community or to
3 [himself] **the offender**, the board may in its discretion release or parole such person except as
4 otherwise prohibited by law. All paroles shall issue upon order of the board, duly adopted.

5 2. Before ordering the parole of any offender, the board shall have the offender appear
6 before a hearing panel and shall conduct a personal interview with [him] **the offender**, unless
7 waived by the offender. A parole shall be ordered only for the best interest of society, not as an
8 award of clemency; it shall not be considered a reduction of sentence or a pardon. An offender
9 shall be placed on parole only when the board believes that [he] **the offender** is able and willing
10 to fulfill the obligations of a law-abiding citizen. Every offender while on parole shall remain
11 in the legal custody of the department but shall be subject to the orders of the board.

12 3. The board shall adopt rules not inconsistent with law, in accordance with section
13 [217.040] **549.008**, with respect to the eligibility of offenders for parole, the conduct of parole
14 hearings or conditions to be imposed upon paroled offenders. Whenever an order for parole is
15 issued it shall recite the conditions of such parole.

16 4. When considering parole for an offender with consecutive sentences, the minimum
17 term for eligibility for parole shall be calculated by adding the minimum terms for parole
18 eligibility for each of the consecutive sentences, except the minimum term for parole eligibility
19 shall not exceed the minimum term for parole eligibility for an ordinary life sentence.

20 5. Any offender under a sentence for first degree murder who has been denied release
21 on parole after a parole hearing shall not be eligible for another parole hearing until at least three
22 years from the month of the parole denial; however, this subsection shall not prevent a release
23 pursuant to subsection 4 of section 558.011, RSMo.

24 6. Parole hearings shall, at a minimum, contain the following procedures:

25 (1) The victim or person representing the victim who attends a hearing may be
26 accompanied by one other person;

27 (2) The victim or person representing the victim who attends a hearing shall have the
28 option of giving testimony in the presence of the inmate or to the hearing panel without the
29 inmate being present;

30 (3) The victim or person representing the victim may call or write the parole board rather
31 than attend the hearing;

32 (4) The victim or person representing the victim may have a personal meeting with a
33 board member at the board's central office; and

34 (5) The judge, prosecuting attorney or circuit attorney and a representative of the local
35 law enforcement agency investigating the crime shall be allowed to attend the hearing or provide
36 information to the hearing panel in regard to the parole consideration.

37 7. The board shall notify any person of the results of a parole eligibility hearing if the
38 person indicates to the board a desire to be notified.

39 8. The board may, at its discretion, require any offender seeking parole to meet certain
40 conditions during the term of that parole so long as said conditions are not illegal or impossible
41 for the offender to perform. These conditions may include an amount of restitution to the state
42 for the cost of that offender's incarceration.

43 9. Nothing contained in this section shall be construed to require the release of an
44 offender on parole nor to reduce the sentence of an offender heretofore committed.

45 10. Beginning January 1, 2001, the board shall not order a parole unless the offender has
46 obtained a high school diploma or its equivalent, or unless the board is satisfied that the offender,
47 while committed to the custody of the department, has made an honest good-faith effort to obtain
48 a high school diploma or its equivalent; provided that the director may waive this requirement
49 by certifying in writing to the board that the offender has actively participated in mandatory
50 education programs or is academically unable to obtain a high school diploma or its equivalent.

[217.695.] **549.032.** 1. As used in this section, the following terms mean:

2 (1) "Chief law enforcement official", the county sheriff, chief of police or other public
3 official responsible for enforcement of criminal laws within a county or city not within a county;

4 (2) "County" includes a city not within a county;

5 (3) "Offender", a person in the custody of the department or under the supervision of the
6 board.

7 2. Each offender to be released from custody of the department who will be under the
8 supervision of the board, except an offender transferred to another state pursuant to the interstate
9 corrections compact, shall shortly before release be required to: complete a registration form

10 indicating his **or her** intended address upon release, employer, parent's address, and such other
11 information as may be required; submit to photographs; submit to fingerprints; or undergo other
12 identification procedures including but not limited to hair samples or other identification indicia.
13 All data and indicia of identification shall be compiled in duplicate, with one set to be retained
14 by the department, and one set for the chief law enforcement official of the county of intended
15 residence.

16 3. Any offender subject to the provisions of this section who changes his **or her** county
17 of residence shall, in addition to notifying the board of probation and parole, notify and register
18 with the chief law enforcement official of the county of residence within seven days after he **or**
19 **she** changes his **or her** residence to that county.

20 4. Failure by an offender to register with the chief law enforcement official upon a
21 change in the county of his **or her** residence shall be cause for revocation of the parole of the
22 person except for good cause shown.

23 5. The department, the board, and the chief law enforcement official shall cause the
24 information collected on the initial registration and any subsequent changes in residence or
25 registration to be recorded with the highway patrol criminal information system.

26 6. The director of the department of public safety shall design and distribute the
27 registration forms required by this section and shall provide any administrative assistance needed
28 to facilitate the provisions of this section.

[217.705.] **549.034.** 1. The chairman shall appoint probation and parole officers and
2 institutional parole officers as deemed necessary to carry out the purposes of the board.

3 2. Probation and parole officers shall investigate all persons referred to them for
4 investigation by the board or by any court as provided by sections [217.750 and 217.760]
5 **549.048 and 549.054.** They shall furnish to each offender released under their supervision a
6 written statement of the conditions of probation, parole or conditional release and shall instruct
7 the offender regarding these conditions. They shall keep informed of the offender's conduct and
8 condition and use all suitable methods to aid and encourage the offender to bring about
9 improvement in the offender's conduct and conditions.

10 3. The probation and parole officer may recommend and, by order duly entered, the court
11 may impose and may at any time modify any conditions of probation. The court shall cause a
12 copy of any such order to be delivered to the probation and parole officer and the offender.

13 4. Probation and parole officers shall keep detailed records of their work and shall make
14 such reports in writing and perform such other duties as may be incidental to those enumerated
15 that the board may require.

16 5. Institutional parole officers shall investigate all offenders referred to them for
17 investigation by the board and shall provide the board such other reports the board may require.

18 They shall furnish the offender prior to release on parole or conditional release a written
19 statement of the conditions of parole or conditional release and shall instruct the offender
20 regarding these conditions.

21 6. The department shall furnish probation and parole officers and institutional parole
22 officers, including supervisors, with credentials and a special badge which such officers and
23 supervisors shall carry on their person at all times while on duty.

[217.710.] **549.036.** 1. Probation and parole officers, supervisors and members of the
2 board of probation and parole, who are certified pursuant to the requirements of subsection 2 of
3 this section shall have the authority to carry their firearms at all times. The [department of
4 corrections] **office of probation and parole** shall promulgate policies and operating regulations
5 which govern the use of firearms by probation and parole officers, supervisors and members of
6 the board when carrying out the provisions of sections [217.650 to 217.810] **549.004 to 549.068.**
7 Mere possession of a firearm shall not constitute an employment activity for the purpose of
8 calculating compensatory time or overtime.

9 2. The [department] **office of probation and parole** shall determine the content of the
10 required firearms safety training and provide firearms certification and recertification training
11 for probation and parole officers, supervisors and members of the board of probation and parole.
12 A minimum of sixteen hours of firearms safety training shall be required. In no event shall
13 firearms certification or recertification training for probation and parole officers and supervisors
14 exceed the training required for officers of the state highway patrol.

15 3. The [department] **office of probation and parole** shall determine the type of firearm
16 to be carried by the officers, supervisors and members of the board of probation and parole.

17 4. Any officer, supervisor or member of the board of probation and parole that chooses
18 to carry a firearm in the performance of such officer's, supervisor's or member's duties shall
19 purchase the firearm and holster.

20 5. The [department] **office of probation and parole** shall furnish such ammunition as
21 is necessary for the performance of the officer's, supervisor's and member's duties.

22 6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
23 is promulgated under the authority of this chapter, shall become effective only if the agency has
24 fully complied with all of the requirements of chapter 536, RSMo, including but not limited to,
25 section 536.028, RSMo, if applicable, after August 28, 1998. All rulemaking authority delegated
26 prior to August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however
27 nothing in section 571.030, RSMo, or this section shall be interpreted to repeal or affect the
28 validity of any rule adopted and promulgated prior to August 28, 1998. If the provisions of
29 section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the
30 powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay

31 the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional
32 or invalid, the purported grant of rulemaking authority and any rule so proposed and contained
33 in the order of rulemaking shall be invalid and void, except that nothing in section 571.030,
34 RSMo, or this section shall affect the validity of any rule adopted and promulgated prior to
35 August 28, 1998.

[217.720.] **549.038.** 1. At any time during release on parole or conditional release the
2 board may issue a warrant for the arrest of a released offender for violation of any of the
3 conditions of parole or conditional release. The warrant shall authorize any law enforcement
4 officer to return the offender to the actual custody of the correctional center from which the
5 offender was released, or to any other suitable facility designated by the board. If any parole or
6 probation officer has probable cause to believe that such offender has violated a condition of
7 parole or conditional release, the probation or parole officer may issue a warrant for the arrest
8 of the offender. The probation or parole officer may effect the arrest or may deputize any officer
9 with the power of arrest to do so by giving the officer a copy of the warrant which shall outline
10 the circumstances of the alleged violation and contain the statement that the offender has, in the
11 judgment of the probation or parole officer, violated conditions of parole or conditional release.
12 The warrant delivered with the offender by the arresting officer to the official in charge of any
13 facility designated by the board to which the offender is brought shall be sufficient legal authority
14 for detaining the offender. After the arrest the parole or probation officer shall present to the
15 detaining authorities a similar statement of the circumstances of violation. Pending hearing as
16 hereinafter provided, upon any charge of violation, the offender shall remain in custody or
17 incarcerated without consideration of bail.

18 2. If the offender is arrested under the authority granted in subsection 1 of this section,
19 the offender shall have the right to a preliminary hearing on the violation charged unless the
20 offender waives such hearing. Upon such arrest and detention, the parole or probation officer
21 shall immediately notify the board and shall submit in writing a report showing in what manner
22 the offender has violated the conditions of his parole or conditional release. The board shall
23 order the offender discharged from such facility, require as a condition of parole or conditional
24 release the placement of the offender in a treatment center operated by the department of
25 corrections, or shall cause the offender to be brought before it for a hearing on the violation
26 charged, under such rules and regulations as the board may adopt. If the violation is established
27 and found, the board may continue or revoke the parole or conditional release, or enter such other
28 order as it may see fit. If no violation is established and found, then the parole or conditional
29 release shall continue. If at any time during release on parole or conditional release the offender
30 is arrested for a crime which later leads to conviction, and sentence is then served outside the
31 Missouri department of corrections, the board shall determine what part, if any, of the time from

32 the date of arrest until completion of the sentence imposed is counted as time served under the
33 sentence from which the offender was paroled or conditionally released.

34 3. An offender for whose return a warrant has been issued by the board shall, if it is
35 found that the warrant cannot be served, be deemed to be a fugitive from justice or to have fled
36 from justice. If it shall appear that the offender has violated the provisions and conditions of his
37 parole or conditional release, the board shall determine whether the time from the issuing date
38 of the warrant to the date of his arrest on the warrant, or continuance on parole or conditional
39 release shall be counted as time served under the sentence. In all other cases, time served on
40 parole or conditional release shall be counted as time served under the sentence.

41 4. At any time during parole or probation, the board may issue a warrant for the arrest
42 of any person from another jurisdiction, the visitation and supervision of whom the board has
43 undertaken pursuant to the provisions of the interstate compact for the supervision of parolees
44 and probationers authorized in section [217.810] **549.068**, for violation of any of the conditions
45 of release, or a notice to appear to answer a charge of violation. The notice shall be served
46 personally upon the person. The warrant shall authorize any law enforcement officer to return
47 the offender to any suitable detention facility designated by the board. Any parole or probation
48 officer may arrest such person without a warrant, or may deputize any other officer with power
49 of arrest to do so by issuing a written statement setting forth that the defendant has, in the
50 judgment of the parole or probation officer, violated the conditions of his **or her** release. The
51 written statement delivered with the person by the arresting officer to the official in charge of the
52 detention facility to which the person is brought shall be sufficient legal authority for detaining
53 him **or her**. After making an arrest the parole or probation officer shall present to the detaining
54 authorities a similar statement of the circumstances of violation.

[217.722.] **549.042.** 1. If any probation officer has probable cause to believe that the
2 person on probation has violated a condition of probation, the probation officer may issue a
3 warrant for the arrest of the person on probation. The officer may effect the arrest or may
4 deputize any other officer with the power of arrest to do so by giving the officer a copy of the
5 warrant which will outline the circumstances of the alleged violation and contain the statement
6 that the person on probation has, in the judgment of the probation officer, violated the conditions
7 of probation. The warrant delivered with the offender by the arresting officer to the official in
8 charge of any jail or other detention facility shall be sufficient authority for detaining the person
9 on probation pending a preliminary hearing on the alleged violation. Other provisions of law
10 relating to release on bail of persons charged with criminal offenses shall be applicable to
11 persons detained on alleged probation violations.

12 2. Any person on probation arrested under the authority granted in subsection 1 of this
13 section shall have the right to a preliminary hearing on the violation charged as long as the

14 person on probation remains in custody or unless the offender waives such hearing. The person
15 on probation shall be notified immediately in writing of the alleged probation violation. If
16 arrested in the jurisdiction of the sentencing court, and the court which placed the person on
17 probation is immediately available, the preliminary hearing shall be heard by the sentencing
18 court. Otherwise, the person on probation shall be taken before a judge or associate circuit judge
19 in the county of the alleged violation or arrest having original jurisdiction to try criminal offenses
20 or before an impartial member of the staff of the Missouri board of probation and parole, and the
21 preliminary hearing shall be held as soon as possible after the arrest. Such preliminary hearings
22 shall be conducted as provided by rule of court or by rules of the Missouri board of probation and
23 parole. If it appears that there is probable cause to believe that the person on probation has
24 violated a condition of probation, or if the person on probation waives the preliminary hearing,
25 the judge or associate circuit judge, or member of the staff of the Missouri board of probation
26 and parole shall order the person on probation held for further proceedings in the sentencing
27 court. If probable cause is not found, the court shall not be barred from holding a hearing on the
28 question of the alleged violation of a condition of probation nor from ordering the person on
29 probation to be present at such a hearing.

30 3. Upon such arrest and detention, the probation officer shall immediately notify the
31 sentencing court and shall submit to the court a written report showing in what manner the
32 person on probation has violated the conditions of probation. Thereupon, or upon arrest by
33 warrant, the court shall cause the person on probation to be brought before it without unnecessary
34 delay for a hearing on the violation charged. Revocation hearings shall be conducted as provided
35 by rule of court.

[217.725.] **549.044.** When a court or other authority has issued a warrant against a
2 person, the board may release him **or her** on parole to answer the warrant of such court or
3 authority.

[217.730.] **549.046.** 1. The period served on parole, except for judicial parole granted
2 or revoked pursuant to section 559.100, RSMo, shall be deemed service of the term of
3 imprisonment and, subject to the provisions of section [217.720] **549.038** relating to an offender
4 who is or has been a fugitive from justice, the total time served may not exceed the maximum
5 term or sentence.

6 2. When an offender on parole or conditional release, before the expiration of the term
7 for which the offender was sentenced, has performed the obligation of his **or her** parole for such
8 time as satisfies the board that his **or her** final release is not incompatible with the best interest
9 of society and the welfare of the individual, the board may make a final order of discharge and
10 issue a certificate of discharge to the offender. No such order of discharge shall be made in any
11 case less than three years after the date on which the offender was paroled or conditionally

12 released except where the sentence expires earlier.

[217.750.] **549.048.** 1. At the request of a judge of any circuit court, the board shall
2 provide probation services for such court as provided in subsection 2 of this section.

3 2. The board shall provide probation services for any person convicted of any class of
4 felony. The board shall not be required to provide probation services for any class of
5 misdemeanor except those class A misdemeanors the basis of which is contained in chapters 565,
6 566 and 570, RSMo, or in section 568.050, RSMo, 455.085, RSMo, or section 455.538, RSMo.
7 The board may in its discretion accept other persons for supervision who have been convicted
8 of driving while intoxicated under the provisions of section 577.023, RSMo.

[217.755.] **549.052.** The board shall adopt general rules and regulations, in accordance
2 with section [217.040] **549.008**, concerning the conditions of probation applicable to cases in the
3 courts for which it provides probation service. Nothing herein, however, shall limit the authority
4 of the court to impose or modify any general or specific conditions of probation.

[217.760.] **549.054.** 1. In all felony cases and class A misdemeanor cases, the basis of
2 which misdemeanor cases are contained in chapters 565, 566, and 570, RSMo, and section
3 577.023, RSMo, at the request of a circuit judge of any circuit court, the board shall assign one
4 or more state probation and parole officers to make an investigation of the person convicted of
5 the crime or offense before sentence is imposed.

6 2. The report of the presentence investigation or preparole investigation shall contain any
7 prior criminal record of the defendant and such information about his **or her** characteristics, his
8 **or her** financial condition, his **or her** social history and the circumstances affecting his **or her**
9 behavior as may be helpful in imposing sentence or in granting probation or in the correctional
10 treatment of the defendant, as well as a recommendation by the probation and parole officer. The
11 officer shall secure such other information as may be required by the court and, whenever it is
12 practicable and needed, such investigation shall include a physical and mental examination of
13 the defendant.

[217.762.] **549.056.** 1. Prior to sentencing any defendant convicted of a felony which
2 resulted in serious physical injury or death to the victim, a presentence investigation shall be
3 conducted by the board of probation and parole to be considered by the court, unless the court
4 orders otherwise.

5 2. The presentence investigation shall include a victim impact statement if the defendant
6 caused physical, psychological, or economic injury to the victim.

7 3. If the court does not order a presentence investigation, the prosecuting attorney may
8 prepare a victim impact statement to be submitted to the court. The court shall consider the
9 victim impact statement in determining the appropriate sentence, and in entering any order of
10 restitution to the victim.

- 11 4. A victim impact statement shall:
- 12 (1) Identify the victim of the offense;
- 13 (2) Itemize any economic loss suffered by the victim as a result of the offense;
- 14 (3) Identify any physical injury suffered by the victim as a result of the offense, along
- 15 with its seriousness and permanence;
- 16 (4) Describe any change in the victim's personal welfare or familial relationships as a
- 17 result of the offense;
- 18 (5) Identify any request for psychological services initiated by the victim or the victim's
- 19 family as a result of the offense; and
- 20 (6) Contain any other information related to the impact of the offense upon the victim
- 21 that the court requires.

 [217.777.] **549.062.** 1. The [department] **office of probation and parole** shall

2 administer a community corrections program to encourage the establishment of local sentencing

3 alternatives for offenders to:

- 4 (1) Promote accountability of offenders to crime victims, local communities and the state
- 5 by providing increased opportunities for offenders to make restitution to victims of crime
- 6 through financial reimbursement or community service;
- 7 (2) Ensure that victims of crime are included in meaningful ways in Missouri's response
- 8 to crime;
- 9 (3) Provide structured opportunities for local communities to determine effective local
- 10 sentencing options to assure that individual community programs are specifically designed to
- 11 meet local needs;
- 12 (4) Reduce the cost of punishment, supervision and treatment significantly below the
- 13 annual per-offender cost of confinement within the traditional prison system; and
- 14 (5) Improve public confidence in the criminal justice system by involving the public in
- 15 the development of community-based sentencing options for eligible offenders.

16 2. The program shall be designed to implement and operate community-based restorative

17 justice projects including, but not limited to: preventive or diversionary programs,

18 community-based intensive probation and parole services, community-based treatment centers,

19 day reporting centers, and the operation of facilities for the detention, confinement, care and

20 treatment of adults under the purview of this chapter **and chapter 217, RSMo.**

21 3. The [department] **office of probation and parole** shall promulgate rules and

22 regulations for operation of the program established pursuant to this section as provided for in

23 section [217.040] **549.008** and chapter 536, RSMo.

24 4. Any proposed program or strategy created pursuant to this section shall be developed

25 after identification of a need in the community for such programs, through consultation with

26 representatives of the general public, judiciary, law enforcement and defense and prosecution
27 bar.

28 5. [Until December 31, 2000,] In communities where local volunteer community boards
29 are established at the request of the court, the following guidelines apply:

30 (1) The [department] **office of probation and parole** shall provide a program of training
31 to eligible volunteers and develop specific conditions of a probation program and conditions of
32 probation for offenders referred to it by the court. Such conditions, as established by the
33 community boards and the [department] **office of probation and parole**, may include
34 compensation and restitution to the community and the victim by fines, fees, day fines,
35 victim-offender mediation, participation in victim impact panels, community service, or a
36 combination of the aforementioned conditions;

37 (2) In referring offenders to local volunteer community boards for probation supervision
38 pursuant to this section, the court is encouraged to select those volunteers who live in close
39 geographical proximity to the community in which the crime is alleged to have occurred for
40 supervision purposes;

41 (3) The term of probation shall not exceed five years and may be concluded by the court
42 when conditions imposed are met to the satisfaction of the local volunteer community board.

43 6. The [department] **office of probation and parole** may staff programs created
44 pursuant to this section with employees of the [department] **office of probation and parole** or
45 may contract with other public or private agencies for delivery of services as otherwise provided
46 by law.

[217.785.] **549.064.** 1. As used in this section, the [term] **following terms shall mean:**

2 (1) "Missouri **institutional** postconviction drug treatment program" [means], a program
3 of [noninstitutional and] institutional correctional programs for the monitoring, control and
4 treatment of certain drug abuse offenders;

5 (2) "Missouri **noninstitutional** postconviction drug treatment program", a program
6 of **noninstitutional** correctional programs for the monitoring, control, and treatment of
7 **certain drug abuse offenders.**

8 2. The department of corrections shall establish by regulation the "Missouri **Institutional**
9 Postconviction Drug Treatment Program". The program shall include [noninstitutional and]
10 institutional placement. The **Missouri** institutional [phase of the] **postconviction drug**
11 **treatment** program may include any offender under the supervision and control of the
12 department of corrections. The department shall establish rules determining how, when and
13 where an offender shall be admitted into or removed from the program.

14 3. The **office of probation and parole** shall establish by regulation the "Missouri
15 **Noninstitutional Postconviction Drug Treatment Program**". The program shall include

16 **noninstitutional placement.**

17 [3.] **4.** Any first-time offender who has pled guilty or been found guilty of violating the
18 provisions of chapter 195, RSMo, or whose controlled substance abuse was a precipitating or
19 contributing factor in the commission of his offense, and who is placed on probation may be
20 required to participate in the noninstitutional phase of the program, which may include
21 education, treatment and rehabilitation programs. Persons required to attend a program pursuant
22 to this section may be charged a reasonable fee to cover the costs of the program. Failure of an
23 offender to complete successfully the **Missouri** noninstitutional [phase of the] **postconviction**
24 **drug treatment** program shall be sufficient cause for the offender to be remanded to the
25 sentencing court for assignment to the **Missouri** institutional [phase of the] **postconviction drug**
26 **treatment** program or any other authorized disposition.

27 [4.] **5.** A probationer shall be eligible for assignment to the **Missouri** institutional [phase
28 of the] postconviction drug treatment program if he **or she** has failed to complete successfully
29 the **Missouri** noninstitutional [phase of the] **postconviction drug treatment** program. If space
30 is available, the sentencing court may assign the offender to the **Missouri** institutional [phase of
31 the] **postconviction drug treatment** program as a special condition of probation, without the
32 necessity of formal revocation of probation.

33 [5.] **6.** The availability of space in the **Missouri** institutional **postconviction drug**
34 **treatment** program shall be determined by the department of corrections. If the sentencing court
35 is advised that there is no space available, then the court shall consider other authorized
36 dispositions.

37 [6.] **7.** Any time after ninety days and prior to one hundred twenty days after assignment
38 of the offender to the **Missouri** institutional [phase of the] **postconviction drug treatment**
39 program, the department shall submit to the court a report outlining the performance of the
40 offender in the program. If the department determines that the offender will not participate or
41 has failed to complete the program, the department shall advise the sentencing court, who shall
42 cause the offender to be brought before the court for consideration of revocation of the probation
43 or other authorized disposition. If the offender successfully completes the program, the
44 department shall release the individual to the appropriate probation and parole district office and
45 so advise the court.

46 [7.] **8.** Time spent in the **Missouri** institutional [phase of the] **postconviction drug**
47 **treatment** program shall count as time served on the sentence.

[217.800.] **549.066.** 1. In all cases in which the governor is authorized by the
2 constitution to grant pardons, he **or she** may grant the same, with such conditions and under such
3 restrictions as he **or she** may think proper.

4 2. All applications for pardon, commutation of sentence or reprieve shall be referred to

5 the board for investigation. The board shall investigate each such case and submit to the
6 governor a report of its investigation, with all other information the board may have relating to
7 the applicant together with any recommendations the board deems proper to make.

8 3. The department of corrections shall notify the central repository, as provided in
9 sections 43.500 to 43.530, RSMo, of any action of the governor granting a pardon, commutation
10 of sentence, or reprieve.

[217.810.] **549.068.** 1. The governor is hereby authorized and directed to enter into the
2 interstate compact for the supervision of parolees and probationers on behalf of the state of
3 Missouri with the commonwealth of Puerto Rico, the Virgin Islands, the District of Columbia
4 and any and all other states of the United States legally joining therein and pursuant to the
5 provisions of an act of the Congress of the United States of America granting the consent of
6 Congress to the commonwealth of Puerto Rico, the Virgin Islands, the District of Columbia and
7 any two or more states to enter into agreements or compacts for cooperative effort and mutual
8 assistance in the prevention of crime and for other purposes, which compact shall have as its
9 objective the permitting of persons placed on probation or released on parole to reside in any
10 other state signatory to the compact assuming the duties of visitation and supervision over such
11 probationers and parolees; permitting the extradition and transportation without interference of
12 prisoners, being retaken, through any and all states signatory to the compact under such terms,
13 conditions, rules and regulations, and for such duration as in the opinion of the governor of this
14 state shall be necessary and proper and in a form substantially as contained in subsection 2 of this
15 section. The chairman of the board shall administer the compact for the state.

16 2. INTERSTATE COMPACT FOR THE
17 SUPERVISION OF PAROLEES AND PROBATIONERS

18 This compact shall be entered into by and among the contracting states, signatories
19 hereto, with the consent of the Congress of the United States of America, granted by an act
20 entitled "An act granting the consent of Congress to any two or more states to enter into
21 agreements or compacts for cooperative effort and mutual assistance in the prevention of crime
22 and for other purposes."

23 The contracting states solemnly agree:

24 (1) That it shall be competent for the duly constituted judicial and administrative
25 authorities of a state party to this compact (herein called "sending state") to permit any person
26 convicted of an offense within such state and placed on probation or released on parole to reside
27 in any other state party to this compact (herein called "receiving state"), while on probation or
28 parole, if

29 (a) Such a person is in fact a resident of or has his family residing within the receiving
30 state and can obtain employment there;

31 (b) Though not a resident of the receiving state and not having his family residing there,
32 the receiving state consents to such person being sent there.

33 Before granting such permission, opportunity shall be granted to the receiving state to
34 investigate the home and prospective employment of such person.

35 A resident of the receiving state, within the meaning of this section, is one who has been
36 an actual inhabitant of such state continuously for more than one year prior to his coming to the
37 sending state and has not resided within the sending state more than six continuous months
38 immediately preceding the commission of the offense for which he has been convicted.

39 (2) The receiving state shall assume the duties of visitation and supervision over
40 probationers or parolees of any sending state transferred under the compact and will apply the
41 same standards of supervision that prevail for its own probationers and parolees.

42 (3) That duly accredited officers of a sending state may at all times enter a receiving state
43 and there apprehend and retake any person on probation or parole. For that purpose no
44 formalities will be required other than establishing the authority of the officer and the identity
45 of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice
46 are hereby expressly waived on the part of states party hereto, as to such persons. The decision
47 of the sending state to retake a person on probation or parole shall be conclusive upon and not
48 reviewable within the receiving state. Provided, however, that if at the time when a state seeks
49 to retake a probationer or parolee there should be pending against him within the receiving state
50 any criminal charge, or he should be suspected of having committed within such state a criminal
51 offense, he shall not be retaken without the consent of the receiving state until discharged from
52 prosecution or from imprisonment for such offense.

53 (4) That the duly accredited officers of the sending state will be permitted to transport
54 prisoners being retaken through any and all states parties to this compact, without interference.

55 (5) Each state may designate an officer who, acting jointly with like officers of other
56 contracting states shall promulgate such rules and regulations as may be deemed necessary to
57 more effectively carry out the terms of this compact.

58 (6) That this compact shall become operative immediately upon its execution by any
59 state as between it and any other state or states so executing. When executed it shall have the
60 full force and effect of law within such state, the form of execution to be in accordance with the
61 laws of the executing state.

62 (7) That this compact shall continue in force and remain binding upon each executing
63 state until renounced by it. The duties and obligations hereunder of a renouncing state shall
64 continue as to parolees or probationers residing therein at the time of withdrawal until retaken
65 or finally discharged by the sending state. Renunciation of this compact shall be by the same
66 authority which executed it, by sending six months' notice in writing of its intention to withdraw

67 from the compact to the other states party hereto.

68 3. If any section, sentence, subdivision or clause within subsection 2 of this section is
69 for any reason held invalid or to be unconstitutional, such decision shall not affect the validity
70 of the remaining provisions of that subsection or this section.

71 4. All necessary and proper expenses accruing as a result of a person being returned to
72 this state by order of a court or the board of probation and parole shall be paid by the state as
73 provided in section 548.241 or 548.243, RSMo.

558.011. 1. The authorized terms of imprisonment, including both prison and
2 conditional release terms, are:

3 (1) For a class A felony, a term of years not less than ten years and not to exceed thirty
4 years, or life imprisonment;

5 (2) For a class B felony, a term of years not less than five years and not to exceed fifteen
6 years;

7 (3) For a class C felony, a term of years not to exceed seven years;

8 (4) For a class D felony, a term of years not to exceed five years;

9 (5) For a class A misdemeanor, a term not to exceed one year;

10 (6) For a class B misdemeanor, a term not to exceed six months;

11 (7) For a class C misdemeanor, a term not to exceed fifteen days.

12 2. In cases of class C and D felonies, the court shall have discretion to imprison for a
13 special term not to exceed one year in the county jail or other authorized penal institution, and
14 the place of confinement shall be fixed by the court. If the court imposes a sentence of
15 imprisonment for a term longer than one year upon a person convicted of a class C or D felony,
16 it shall commit the person to the custody of the department of corrections for a term of years not
17 less than two years and not exceeding the maximum authorized terms provided in subdivisions
18 (3) and (4) of subsection 1 of this section.

19 3. (1) When a regular sentence of imprisonment for a felony is imposed, the court shall
20 commit the defendant to the custody of the department of corrections for the term imposed under
21 section 557.036, RSMo, or until released under procedures established elsewhere by law.

22 (2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the
23 court shall commit the defendant to the county jail or other authorized penal institution for the
24 term of his sentence or until released under procedure established elsewhere by law.

25 4. (1) A sentence of imprisonment for a term of years for felonies other than dangerous
26 felonies as defined in section 556.061, RSMo, **sexually violent offenses as defined in section**
27 **632.480, RSMo**, and [other than] sentences of imprisonment which involve the individual's
28 fourth or subsequent remand to the department of corrections shall consist of a prison term and
29 a conditional release term. The conditional release term of any term imposed under section

30 557.036, RSMo, shall be:

31 (a) One-third for terms of nine years or less;

32 (b) Three years for terms between nine and fifteen years;

33 (c) Five years for terms more than fifteen years; and the prison term shall be the
34 remainder of such term. The prison term may be extended by the board of probation and parole
35 pursuant to subsection 5 of this section.

36 (2) "Conditional release" means the conditional discharge of an offender by the board
37 of probation and parole, subject to conditions of release that the board deems reasonable to assist
38 the offender to lead a law-abiding life, and subject to the supervision under the state board of
39 probation and parole. The conditions of release shall include avoidance by the offender of any
40 other crime, federal or state, and other conditions that the board in its discretion deems
41 reasonably necessary to assist the releasee in avoiding further violation of the law.

42 5. The date of conditional release from the prison term may be extended up to a
43 maximum of the entire sentence of imprisonment by the board of probation and parole. The
44 director of any division of the department of corrections except the board of probation and parole
45 may file with the board of probation and parole a petition to extend the conditional release date
46 when an offender fails to follow the rules and regulations of the division or commits an act in
47 violation of such rules. Within ten working days of receipt of the petition to extend the
48 conditional release date, the board of probation and parole shall convene a hearing on the
49 petition. The offender shall be present and may call witnesses in his behalf and cross-examine
50 witnesses appearing against him. The hearing shall be conducted as provided in section 217.670,
51 RSMo. If the violation occurs in close proximity to the conditional release date, the conditional
52 release may be held for a maximum of fifteen working days to permit necessary time for the
53 division director to file a petition for an extension with the board and for the board to conduct
54 a hearing, provided some affirmative manifestation of an intent to extend the conditional release
55 has occurred prior to the conditional release date. If at the end of a fifteen-working-day period
56 a board decision has not been reached, the offender shall be released conditionally. The decision
57 of the board shall be final.

Section B. The enactment of section 549.008 and the transfer of sections 549.004,
2 549.012, 549.014, 549.016, 549.018, 549.022, 549.024, 549.026, 549.028, 549.032, 549.034,
3 549.036, 549.038, 549.042, 549.044, 549.046, 549.048, 549.052, 549.054, 549.056, 549.062,
4 549.064, 549.066, and 549.068 shall become effective on January 1, 2003.

Section C. Because immediate action is necessary in order to provide for the
2 uninterrupted flow of probation and parole services, section 549.006 of section A of this act is
3 deemed necessary for the immediate preservation of the public health, welfare, peace, and safety,
4 and is hereby declared to be an emergency act within the meaning of the constitution, and the

5 enactment of section 549.006 of section A of this act shall be in full force and effect upon its
6 passage and approval.